IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6124 of 2007()

CRMP.5861/2007 of DISTRICT COURT, PALAKKAD
CRIME NO.174/07 OF NENMARA POLICE STATION

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: PETITIONERS/ACCUSED NOS.2,3,5 AND 6

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1. SASI, S/O.MANI, PARAKKAL COLONY,
   ADIPERANDA, PALAKKAD.

2. BINEESH, S/O.KASU, DO. DO.

3. MOHANAN, S/O.UNNIKRISHNAN, DO. DO.

4. RAJU, S/O.THEYYAN, DO. DO.

BY ADV. SRI.T.M.CHANDRAN
SRI.S.SUJITH
SRI.V.A.SASIDHARAN
SRI.JOSEPH ALBIN NEDUNTHALLY

RESPONDENTS: COMPLAINANT

SUB INSPECTOR OF POLICE,
NENMARA POLICE STATION, PALAKKAD DIST.
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM (CRIME NO.174/07).

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6124 of 2007

Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 2, 3, 5 & 6 in a crime registered for offences punishable, inter alia, under Section 308 I.P.C. The defacto complainant, who came on a motorcycle to the scene of the crime, was attacked by the accused who allegedly assumed that he was coming to attack them. The 1st accused allegedly took a stone, wrapped the same in a towel and allegedly hit the defacto complainant. He suffered injuries. It is alleged that the petitioners along with the 1st accused were members of an unlawful assembly of persons. The 1st accused was arrested. He has already been granted regular bail by this Court as per order dated 1.10.07 in B.A.5861 of 2007.

2. The learned counsel for the petitioners submits that even if the entire allegations were accepted in toto, the petitioners cannot be said to have entertained any common object nor can they be held vicariously liable for the culpable overt act of the 1st accused. In any view of the matter, it can be seen that the allegation under Section 308 I.P.C are not justified also. In these circumstances, the petitioners may be granted anticipatory bail, it is submitted.

3. The learned Public Prosecutor does not oppose the application. Appropriate conditions may be imposed, it is submitted. Nature of the injuries suffered by the sole victim has been read over to me.

4. I am satisfied, in the facts and circumstances, that direction under Section 438 Cr.P.C can be issued in favour of the petitioners, subject of course to appropriate conditions, which shall safeguard the interests of a fair, efficient and expeditious investigation.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 23.10.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 24.10.07 and 25.10.07. The Investigating Officer shall be at liberty to interrogate in custody and take appropriate steps in the investigation. Thereafter the petitioners shall make themselves available for interrogation before the Investigating Officer between 10

a.m and 12 noon on all Mondays and Fridayss for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 23.10.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each without any sureties undertaking to appear before the learned Magistrate on 23.10.07.

(R.BASANT, JUDGE)

rtr/-